

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF MISSISSIPPI
ABERDEEN DIVISION**

MARTY LAMBERT

MOVANT

v.

No. 1:12CR167-SA

UNITED STATES OF AMERICA

RESPONDENT

**ORDER DISMISSING REMAINING CLAIM
IN DEFENDANT’S MOTION TO VACATE, SET ASIDE
OR CORRECT SENTENCE UNDER 28 U.S.C. § 2255**

This matter comes before the court on the motion by Marty Lambert to vacate, set aside, or correct his sentence under 28 U.S.C. § 2255. On February 7, 2018, the court issued a memorandum opinion and judgment dismissing all grounds for relief in the § 2255 motion, except Mr. Lambert’s claim that he instructed his attorney to file a notice of appeal, but counsel failed to do so. The relief Mr. Lambert sought in the instant motion is a lesser term of incarceration. According to the United States Bureau of Prisons website, Mr. Lambert has completed his sentence and has been released from custody. As such, his request for *habeas corpus* relief under 28 U.S.C. § 2255 has become moot:

Since respondents elected only to attack their sentences, and since those sentences expired during the course of these proceedings, this case is moot. “Nullification of a conviction may have important benefits for a defendant ... but urging in a habeas corpus proceeding the correction of a sentence already served is another matter.” *North Carolina v. Rice*, 404 U.S. 244, 248, 92 S.Ct. 402, 405, 30 L.Ed.2d 413.

Lane v. Williams, 455 U.S. 624, 631, 102 S. Ct. 1322, 1327, 71 L. Ed. 2d 508 (1982). As such, the remaining ground for relief in the instant Motion to Vacate, Set Aside, or Correct Sentence under 28 U.S.C. § 2255 is **DISMISSED** as moot.

SO ORDERED, this, the 28th day of February, 2018.

/s/ Sharion Aycock
U.S. DISTRICT JUDGE